IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 3RD APRIL 2007 / 13TH CHAITHRA 1930

Crl.MC.No. 1042 of 2007()

CC.388/2006 of JUDL.MAGISTRATE OF FIRST CLASS-II(FOREST OFFENCES), MANJERI

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PETITIONER: ACCUSED

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1. N.K.SADIK, AGED 37 YEARS,
S/O.MUHAMMED KOYA, NAGATHANKANDY HOUSE,
KONDOTTY AMSOM AND DESOM, RESIDING AT MELEVEETTIL-
QUARTERS, KONDOTTY, MALAPPURAM DISTRICT.

2. CHEMBAN PATHUMMUNNI, AGED 66 YEARS,
W/O.MOHAMMED KOYA, NAGATHANKANDY HOUSE,
KONDOTTY AMSOM AND DESOM, RESIDING AT
MELEVEETTIL QUARTERS, KONDOTTY, MALAPPURAM DIST.

3. N.K.RAFEEQUE, AGED 27 YEARS,
S/O.MOHAMMED KOYA, NAGATHANKANDY HOUSE,
KONDOTTY AMSOM AND DESOM, RESIDING AT
MELEVEETTIL QUARTERS, KONDOTTY, MALAPPURAM DIST.

4. N.K.SOUDHABI, D/O.MOHAMMED KOYA,
NAGATHANKANDY HOUSE, KONDOTTY AMSOM AND DESOM,
RESIDING AT MELEVEETTIL QUARTERS, KONDOTTY,
MALAPPURAM DISTRICT.

BY ADV. SRI.T.K.KUNHABDULLA

RESPONDENTS: COMPLAINANTS

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1. JESFINEESHA, D/O.ISMAIL KHAN,
KINATTINKAL HOUSE, PALAKULAM NARUKARA AMSOM &
DESOM, MANJERI, MALAPPURAM DISTRICT.

2. STATE OF KERALA, REP.
BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.
(SUB INSPECTOR OF POLICE, KONDOTTY POLICE
STATION, MALAPPURAM DISTRICT).

BY ADV. SRI.T.GOPALAKRISHNAN
PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 03/04/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

CRL.M.C.NO. 1042 OF 2007

Dated this the 3rd day of April, 2007

ORDER

The petitioners face indictment in a prosecution under Sec.498A read with Sec.34 of the IPC. They are the husband and relatives of the 1st respondent herein.

2. The petitioners have come before this Court with a prayer that the powers under Sec.482 of the Cr.P.C. may be invoked to quash the proceedings initiated against the petitioners. The learned counsel for the petitioners submits and the learned counsel for the 1st respondent concedes that the disputes between the parties have been settled amicably and the 1st respondent – the de facto complainant, has compounded the offence allegedly committed by the petitioners. The parties have filed a joint application for composition as Crl.M.A.No.1731/07. The application is duly signed by the petitioners and the 1st respondent and

countersigned by their respective counsel. The learned counsel for the 1st respondent vouches for the signature of the 1st respondent in the application for composition.

3. I am satisfied from the averments made in the petition and the submissions made at the Bar that the parties have settled their disputes amicably and the 1st respondent has compounded the offence allegedly committed by the petitioners. If the same is legally acceptable, I am satisfied that the composition can be accepted and the proceedings can be brought to termination.

4. The offence under Sec.498A of the IPC is not compoundable. But the learned counsel submit that the decision in **B.S. Joshy v. State of Haryana** (AIR 2003 SC 1386) justifies the invocation of the powers under Sec.482 of the Cr.P.C. The rationale underlying the said decision is that the interests of justice may at times transcend the interests of mere law and in such exceptional cases powers under Sec.482 of the Cr.P.C. can be invoked and Sec.320 of the Cr.P.C. cannot be reckoned as a fetter on the powers of the Court under Sec.482 of the Cr.P.C.

5. It is submitted that the 1st petitioner and the 1st

respondent are living together harmoniously. I am satisfied that this is an eminently fit case where the composition can be accepted and the proceedings brought to premature termination invoking the dictum in **B.S. Joshy v. State of Haryana** (AIR 2003 SC 1386).

6. . In the result:

(i) This Crl.M.C. is allowed.

(ii) C.C.No.388/06 pending before the Judicial First Class Magistrate's Court-II, (Special Court Forest), Manjeri, against the petitioners is hereby quashed.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge